

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

Crl.MC.No. 585 of 2007()

ST.1537/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, KANNUR

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PETITIONER: ACCUSED

MRS. M.ZEENATH, D/O. T.P.MOHAMMED HAJI,
HOUSE WIFE, KADEEJA MANZIL, P.O.CHALAD.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS: COMPLAINANT

1. T.P.ABBAS, S/O. MOIDEEN KUNHI,
MUTTOM P.O., VENGARA, KANNUR.
2. STATE OF KERALA, REPRESENTED BY
ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON / / , THE COURT ON 02/03/2007 PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.585 of 2007

Dated this the 2nd day of March, 2007

ORDER

The petitioner, a woman faces indictment in a prosecution under Section 138 of the N.I Act. The case is registered as S.T.No.1537 of 2006. According to the petitioner, this is a vexating complaint initiated against her. She is willing to pay the amount and has already offered to pay the cheque amount. The complainant has not accepted the offer and he is not withdrawing the complaint against her. This is being done only to vex and harass the petitioner. An incorrect address of the complainant has been shown and that has now resulted in the learned Magistrate issuing a nonailable warrant of arrest against the petitioner. The petitioner is willing to surrender before the learned Magistrate and seek bail. The nonailable warrant may not be executed till that date. Her application for bail may be directed to be considered on the date of her surrender itself. This in short is the prayer made now.

2. The willingness to pay or payment of the amount cannot ipso facto efface the liability under Section 138 of the N.I Act and therefore prayer for quashing proceedings on that ground cannot be accepted. However, I am satisfied that in this case filed only in 2006,

there can be a direction not to execute the warrant till 12.03.2007. Her application for bail will have to be considered by the learned Magistrate on the date of surrender itself.

3. In the result, this Crl.M.C is, allowed in part. It is directed that the warrant issued against the petitioner shall not be executed till 12.03.2007. On that date, the petitioner must appear before the learned Magistrate. The learned Magistrate must consider her application for bail on merits and proceed to pass appropriate orders on that date itself.

(R.BASANT, JUDGE)

rtr/-